

# Exhibit 5

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595 Market Street, Suite 1320  
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55 River Street, Suite 100  
Santa Cruz, CA 95060  
Telephone: (831) 458-0502  
Facsimile: (831) 426-0159

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA  
NORTHERN DISTRICT OF THE STATE OF CALIFORNIA  
SAN JOSE DIVISION

JIMMY D. HAWS, SETH DANIEL HAWS,  
and MIA SKYE HAWS, minors, by and  
through their guardian ad litem, CARRIE  
A. HAWS, and CARRIE A. HAWS,  
individually,

Plaintiffs,

v.

COUNTY OF MONTEREY, MICHAEL  
KANALAKIS, NATIVIDAD MEDICAL  
CENTER and DOES 1-300, inclusive,

Defendants.

CASE NO.: C07 02599 JF

**PLAINTIFFS' NOTICE OF TAKING  
DEPOSITION OF THE COUNTY OF  
MONTEREY EMPLOYEE CHIEF  
DEPUTY BURT LIEBERSBACH**

TO DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:

Pursuant to FRCP Rule 30 (b)(1), on **December 4, 2007** beginning at 10:00 a.m., at the Law  
Offices of Michael B. Moore, 595 Market Street, Suite 1320, San Francisco, CA 94105, Telephone  
(415) 956-6500, plaintiffs will take the deposition of the **COUNTY OF MONTEREY  
EMPLOYEE CHIEF DEPUTY BURT LIEBERSBACH**.

Said depositions will be taken before a deposition officer who is authorized to administer an  
oath. If the deposition is not completed on the dates set forth above, the taking of the depositions  
will be continued from day to day thereafter except Sundays and holidays at the same place until

1 completed. Pursuant to Rule 34, Defendant County of Monterey is requested to produce at the time  
2 of the deposition all documents relating to or referring the matters listed in Attachment 1.

3  
4 LAW OFFICE OF MICHAEL B. MOORE

5  
6  
7 Dated: November 1, 2007

By: Michael B. Moore  
Michael B. Moore

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Law Office Of Michael B. Moore  
595 Market Street Suite 1320  
San Francisco, CA 94105

EXHIBIT 5  
PAGE 2 OF 54 PAGES

ATTACHMENT 1

DEFINITIONS

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(1) **INCIDENT** means the attack by Roger Spencer on Jimmy D. Haws which occurred on December 7, 2006 in the stairway area of D-Pod of the Monterey County Jail in Salinas, California.

(2) **DOCUMENT** means a writing, as defined in California Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostats, photographs, electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds or symbols, or combinations of them.

DOCUMENTS TO BE PRODUCED

1. Any and all archives relating to the Monterey County Jail created by Chief Deputy Liebersbach.

2. Any and all photographs of D Pod at the Monterey County Jail.

3. Any and all DOCUMENTS, including, but not limited to, memorandum, correspondence, articles, notes, diaries, and manuscripts created by Chief Deputy Liebersbach relating to the Monterey County Jail.

4. Any and all DOCUMENTS, including, but not limited to, memorandum, correspondence, articles, notes, diaries, and manuscripts created by Chief Deputy Liebersbach relating to inmate overcrowding issues at the Monterey County Jail.

5. All DOCUMENTS, including, but not limited to, memorandum, correspondence, articles, notes, diaries, and manuscripts created by Chief Deputy Liebersbach relating to inmate on inmate violence issues at the Monterey County Jail.

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1           6. All DOCUMENTS, including, but not limited to, memorandum, correspondence,  
2 articles, notes, diaries, and manuscripts created by Chief Deputy Liebersbach relating to inmate on  
3 inmate violence issues in D Block at the Monterey County Jail.

Law Office Of Michael B. Moore  
595 Market Street Suite 1320  
San Francisco, CA 94105

EXHIBIT 5  
PAGE 4 OF 54 PAGES

*Haws v. County of Monterey, et al*  
Case No. C07 02599 RS  
U. S. District Court - Northern District of California

**DECLARATION OF SERVICE BY MAIL**  
**(C.C.P. § 1013a(3), 2009, 2015.5)**

I am over the age of 18 years, a citizen of the United States, and not a party to the within entitled cause of action. My business address is 595 Market Street, Suite 1320, San Francisco, California 94105, and I am employed in the City and County of San Francisco, State of California. On the date set forth below I served the documents described below:

1. Plaintiffs' Notice of Deposition Chief Deputy Burt Liebersbach
2. Plaintiffs' First Notice of PMK Deposition to the County of Monterey
3. Plaintiffs' Second Notice of PMK Deposition to the County of Monterey
4. Plaintiffs' Third Notice of PMK Deposition to the County of Monterey
5. Plaintiffs' Fourth Notice of PMK Deposition to the County of Monterey

on the following party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Traci Kirkbride, Deputy County Counsel  
Office of the County Counsel  
County of Monterey  
168 W. Alisal Street  
Salinas, CA 93901  
**Attorneys for Defendant County**

Ralph W. Boroff, Esq.  
55 River Street, Suite 100  
Santa Cruz, CA 95060  
**Co-Counsel for Plaintiffs**

David Sheuerman, Esq.  
Sheuerman, Martini & Tabari, P.C.  
1033 Willow Street  
San Jose, CA 95125  
**Attorneys for Defendant Natividad**

- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.
- ☐ (BY HAND) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ (BY FACSIMILE/ELECTRONIC MAIL/OVERNIGHT MAIL) I caused such document(s) to be transmitted by facsimile/electronically or by overnight mail on this date to the office of the addressee(s).
- ☐ (BY E-FILEING WITH THE U.S. DISTRICT COURT) By submitting these documents for Electronic Case Filing, Pursuant to Local Rule 5-4 and General Order 45, at the Law Office of Michael B. Moore, 595 Market Street, Suite 1320, San Francisco, CA 94105.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 1, 2007 at San Francisco, California.

  
Mark Ross

EXHIBIT

PAGE 5 OF 54 PAGES

MONTEREY COUNTY COUNSEL  
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EXHIBIT 5  
PAGE 6 OF 54 PAGES

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Santa Cruz, CA 95060  
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Facsimile: (831) 426-0159

7 Attorneys for Plaintiffs

8  
9 IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA  
10 NORTHERN DISTRICT OF THE STATE OF CALIFORNIA  
SAN JOSE DIVISION

11 JIMMY D. HAWS, SETH DANIEL HAWS,  
12 and MIA SKYE HAWS, minors, by and  
through their guardian ad litem, CARRIE  
13 A. HAWS, and CARRIE A. HAWS,  
individually,

14 Plaintiffs,

15 v.

16 COUNTY OF MONTEREY, MICHAEL  
KANALAKIS, NATIVIDAD MEDICAL  
17 CENTER and DOES 1-300, inclusive,

18 Defendants.

CASE NO.: C07 02599 JF

**PLAINTIFFS' NOTICE OF TAKING  
DEPOSITION OF THE COUNTY OF  
MONTEREY**

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20 TO DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:

21 Pursuant to FRCP Rule 30 (b)(1), on **December 5, 2007** beginning at 10:00 a.m., at the Law  
22 Offices of Michael B. Moore, 595 Market Street, Suite 1320, San Francisco, CA 94105, Telephone  
23 (415) 956-6500, plaintiffs will take the deposition of the **COUNTY OF MONTEREY**. Defendant  
24 County of Monterey is requested to designate and produce those of its officers, directors, managing  
25 agents, employees or agents who are most qualified to testify on its behalf as to the matters listed in  
26 Attachment 1 to the extent of any information known or reasonably available to the County of  
27 Monterey.

EXHIBIT

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PAGE 7 OF 54 PAGES



1 Said depositions will be taken before a deposition officer who is authorized to administer an  
2 oath. If the deposition is not completed on the dates set forth above, the taking of the depositions  
3 will be continued from day to day thereafter except Sundays and holidays at the same place until  
4 completed.

5 Pursuant to Rule 34, Defendant County of Monterey is requested to produce at the time of  
6 the deposition all documents relating to or referring the matters listed in Attachment 2.

7  
8 LAW OFFICE OF MICHAEL B. MOORE

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11 Dated: November 1, 2007

12 By: Michael B. Moore  
13 Michael B. Moore  
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EXHIBIT 5  
PAGE 8 OF 54 PAGES

1 **ATTACHMENT 1**

2 **DEFINITIONS**

3 Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

4 (1) **INCIDENT** means the attack by Roger Spencer on Jimmy D. Haws which occurred  
5 on December 7, 2006 in the stairway area of D-Pod of the Monterey County Jail in Salinas,  
6 California.

7 (2) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and  
8 includes the original or a copy of handwriting, typewriting, printing, photostats, photographs,  
9 electronically stored information, and every other means of recording upon any tangible thing and  
10 form of communicating or representation, including letters, words, pictures, sounds or symbols, or  
11 combinations of them.

12 **TOPICS FOR DEPOSITION**

13 1. That person most familiar with the maximum inmate capacity of the Monterey County  
14 Jail on the day of the INCIDENT.

15 2. That person most familiar with any and all DOCUMENTS which evidence the  
16 maximum inmate capacity of the Monterey County Jail on the day of the INCIDENT.

17 3. That person most familiar with the maximum inmate capacity of D Pod at the  
18 Monterey County Jail on the day of the INCIDENT.

19 4. That person most familiar with any and all DOCUMENTS which evidence the  
20 maximum inmate capacity of D Pod at the Monterey County Jail on the day of the INCIDENT.

21 5. That person most familiar with the number of inmates housed at the Monterey County  
22 Jail on the day of the INCIDENT.

23 6. That person most familiar with any and all DOCUMENTS relating to the number of  
24 inmates housed at the Monterey County Jail on the day of the INCIDENT.

25 7. That person most familiar with the number of inmates housed in D Pod at the  
26 Monterey County Jail on the day of the INCIDENT.

27 EXHIBIT 5

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1           8.       That person most familiar with any and all DOCUMENTS relating to the number of  
2 inmates housed in D Pod at the Monterey County Jail on the day of the INCIDENT.

3           9.       That person most familiar with the minimum number of supervisory staff required  
4 to supervise inmates housed at the Monterey County Jail on the day of the INCIDENT.

5           10.      That person most familiar with any and all DOCUMENTS relating to the minimum  
6 number of supervisory staff required to supervise inmates housed at the Monterey County Jail on the  
7 day of the INCIDENT.

8           11.      That person most familiar with the actual number of supervisory staff present on the  
9 job supervising the inmates housed at the Monterey County Jail on the day of the INCIDENT.

10          12.      That person most familiar with any and all DOCUMENTS relating to the actual  
11 number of supervisory staff present on the job supervising the inmates housed at the Monterey  
12 County Jail on the day of the INCIDENT.

13          13.      That person most familiar with the minimum number of supervisory staff required  
14 to supervise inmates housed in D Pod at the Monterey County Jail on the day of the INCIDENT.

15          14.      That person most familiar with any and all DOCUMENTS relating to the minimum  
16 number of supervisory staff required to supervise inmates housed in D Pod at the Monterey County  
17 Jail on the day of the INCIDENT.

18          15.      That person most familiar with the actual number of supervisory staff present on the  
19 job supervising the inmates housed in D Pod at the Monterey County Jail on the day of the  
20 INCIDENT.

21          16.      That person most familiar with any and all DOCUMENTS relating to the actual  
22 number of supervisory staff present on the job supervising the inmates housed in D Pod at the  
23 Monterey County Jail on the day of the INCIDENT.

24          17.      That person most familiar with any and all supplementary housing allowance program  
25 for law enforcement employees investigation by the Sheriff's Department staff and/or the County  
26 Administrative Officer's staff referenced in the 2003 Monterey County Grand Jury report.

27

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1           18. That person most familiar with all DOCUMENTS relating to any and all  
2 supplementary housing allowance program for law enforcement employees investigation by the  
3 Sheriff's Department staff and/or the County Administrative Officer's staff referenced in the 2003  
4 Monterey County Grand Jury report.

5           19. That person most familiar with any and all presentations made by the Sheriff's  
6 Department staff and the County Administrative Officer's staff to the Monterey County Board of  
7 Supervisors as part of an "affordable housing" plan to insure recruitment and retention of critical  
8 County employees referenced in the 2003 Monterey County Grand Jury report.

9           20. That person most familiar with any and all DOCUMENTS evidencing all  
10 presentations made by the Sheriff's Department staff and the County Administrative Officer's staff  
11 to the Monterey County Board of Supervisors as part of an "affordable housing" plan to insure  
12 recruitment and retention of critical County employees referenced in the 2003 Monterey County  
13 Grand Jury report.

14           21. That person most familiar with any and all prisoner overcrowding relief programs  
15 developed by the Sheriff's Department staff and/or the County Administrative Officer's staff in  
16 response to the conditions at the Monterey County Jail.

17           22. That person most familiar with any and all DOCUMENTS evidencing any and all  
18 prisoner overcrowding relief programs developed by the Sheriff's Department staff and/or the County  
19 Administrative Officer's staff in response to the conditions at the Monterey County Jail.

20           23. That person most familiar with any and all judicial or regulatory inquiries relating to  
21 the overcrowded conditions at the Monterey County Jail, and the County of Monterey's responses  
22 to said inquiries, including but not limited to all Monterey County Civil Grand Jury reports, and  
23 reports of the Presiding Judge of the Superior Court of Monterey, reports by Sheriff's Department  
24 staff and/or the County Administrative Officer's staff, and the Monterey County Board of  
25 Supervisors relating to overcrowding at the Monterey County Jail.

26           24. That person most familiar with any and all DOCUMENTS evidencing any and all  
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1 judicial or regulatory inquiries relating to the overcrowded conditions at the Monterey County Jail,  
2 and the County of Monterey's responses to said inquiries, including but not limited to all Monterey  
3 County Civil Grand Jury reports, and reports of the Presiding Judge of the Superior Court of  
4 Monterey, reports by Sheriff's Department staff and/or the County Administrative Officer's staff, and  
5 the Monterey County Board of Supervisors relating to overcrowding at the Monterey County Jail.

6 25. That person most familiar with any and all judicial or regulatory inquiries relating to  
7 under staffing and high employee turnover rates at the Monterey County Jail, and the County of  
8 Monterey's responses to said inquiries, including but not limited to all Monterey County Civil Grand  
9 Jury reports, and reports of the Presiding Judge of the Superior Court of Monterey, reports by  
10 Sheriff's Department staff and/or the County Administrative Officer's staff, and the Monterey  
11 County Board of Supervisors relating to under staffing and high employee turnover rates at the  
12 Monterey County Jail.

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14 26. That person most familiar with any and all DOCUMENTS evidencing any and all  
15 judicial or regulatory inquiries relating to under staffing and high employee turnover rates conditions  
16 at the Monterey County Jail, and the County of Monterey's responses to said inquiries, including but  
17 not limited to all Monterey County Civil Grand Jury reports, and reports of the Presiding Judge of  
18 the Superior Court of Monterey, reports by Sheriff's Department staff and/or the County  
19 Administrative Officer's staff, and the Monterey County Board of Supervisors relating to under  
20 staffing and high employee turnover rates at the Monterey County Jail.

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26 EXHIBIT 5  
27 PAGE 12 OF 54 PAGES  
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ATTACHMENT 2

DEFINITIONS

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

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DOCUMENTS TO BE PRODUCED

1. Any and all DOCUMENTS which evidence the maximum inmate capacity of the Monterey County Jail on the day of the INCIDENT.

2. Any and all DOCUMENTS which evidence the maximum inmate capacity of D Pod at the Monterey County Jail on the day of the INCIDENT.

3. Any and all DOCUMENTS relating to the number of inmates housed at the Monterey County Jail on the day of the INCIDENT.

4. Any and all DOCUMENTS relating to the number of inmates housed in D Pod at the Monterey County Jail on the day of the INCIDENT.

5. Any and all DOCUMENTS relating to the minimum number of supervisory staff required to supervise inmates housed at the Monterey County Jail on the day of the INCIDENT.

6. Any and all DOCUMENTS relating to the actual number of supervisory staff present on the job supervising the inmates housed at the Monterey County Jail on the day of the INCIDENT.

7. Any and all DOCUMENTS relating to the minimum number of supervisory staff required to supervise inmates housed in D Pod at the Monterey County Jail on the day of the

1 INCIDENT.

2 8. Any and all DOCUMENTS relating to the actual number of supervisory staff present  
3 on the job supervising the inmates housed in D Pod at the Monterey County Jail on the day of the  
4 INCIDENT.

5 9. Any and all DOCUMENTS relating to any and all supplementary housing allowance  
6 program for law enforcement employees investigation by the Sheriff's Department staff and/or the  
7 County Administrative Officer's staff referenced in the 2003 Monterey County Grand Jury report.

8 10. Any and all DOCUMENTS evidencing all presentations made by the Sheriff's  
9 Department staff and the County Administrative Officer's staff to the Monterey County Board of  
10 Supervisors as part of an "affordable housing" plan to insure recruitment and retention of critical  
11 County employees referenced in the 2003 Monterey County Grand Jury report.

12 11. Any and all DOCUMENTS evidencing any and all prisoner overcrowding relief  
13 programs developed by the Sheriff's Department staff and/or the County Administrative Officer's  
14 staff in response to the conditions at the Monterey County Jail.

15 12. Any and all DOCUMENTS evidencing any and all judicial or regulatory inquiries  
16 relating to the overcrowded conditions at the Monterey County Jail, and the County of Monterey's  
17 responses to said inquiries, including but not limited to all Monterey County Civil Grand Jury  
18 reports, and reports of the Presiding Judge of the Superior Court of Monterey, reports by Sheriff's  
19 Department staff and/or the County Administrative Officer's staff, and the Monterey County Board  
20 of Supervisors relating to overcrowding at the Monterey County Jail.

21 13. Any and all DOCUMENTS evidencing any and all judicial or regulatory inquiries  
22 relating to under staffing and high employee turnover rates conditions at the Monterey County Jail,  
23 and the County of Monterey's responses to said inquiries, including but not limited to all Monterey  
24 County Civil Grand Jury reports, and reports of the Presiding Judge of the Superior Court of  
25 Monterey, reports by Sheriff's Department staff and/or the County Administrative Officer's staff, and  
26 the Monterey County Board of Supervisors relating to under staffing and high employee turnover  
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1 rates at the Monterey County Jail.  
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Law Office Of Michael B. Moore  
595 Market Street Suite 1320  
San Francisco, CA 94105

EXHIBIT 5  
PAGE 15 OF 54 PAGES



*Haws v. County of Monterey, et al*  
Case No. C07 02599 RS  
U. S. District Court - Northern District of California

**DECLARATION OF SERVICE BY MAIL**  
**(C.C.P. § 1013a(3), 2009, 2015.5)**

I am over the age of 18 years, a citizen of the United States, and not a party to the within entitled cause of action. My business address is 595 Market Street, Suite 1320, San Francisco, California 94105, and I am employed in the City and County of San Francisco, State of California. On the date set forth below I served the documents described below:

1. Plaintiffs' Notice of Deposition Chief Deputy Burt Liebersbach
2. Plaintiffs' First Notice of PMK Deposition to the County of Monterey
3. Plaintiffs' Second Notice of PMK Deposition to the County of Monterey
4. Plaintiffs' Third Notice of PMK Deposition to the County of Monterey
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on the following party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Traci Kirkbride, Deputy County Counsel  
Office of the County Counsel  
County of Monterey  
168 W. Alisal Street  
Salinas, CA 93901  
**Attorneys for Defendant County**

Ralph W. Boroff, Esq.  
55 River Street, Suite 100  
Santa Cruz, CA 95060  
**Co-Counsel for Plaintiffs**

David Sheuerman, Esq.  
Sheuerman, Martini & Tabari, P.C.  
1033 Willow Street  
San Jose, CA 95125  
**Attorneys for Defendant Natividad**

- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 1, 2007 at San Francisco, California.

  
Mark Ross

EXHIBIT 5  
PAGE 16 OF 54 PAGES

MONTEREY COUNTY COUNSEL ( )  
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PAGE 17 OF 54 PAGES

1 Michael B. Moore, Esq. (SBN 62182)  
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12 Attorneys for Plaintiffs

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IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA  
NORTHERN DISTRICT OF THE STATE OF CALIFORNIA  
SAN JOSE DIVISION

JIMMY D. HAWS, SETH DANIEL HAWS,  
and MIA SKYE HAWS, minors, by and  
through their guardian ad litem, CARRIE  
A. HAWS, and CARRIE A. HAWS,  
individually,

Plaintiffs,

v.

COUNTY OF MONTEREY, MICHAEL  
KANALAKIS, NATIVIDAD MEDICAL  
CENTER and DOES 1-300, inclusive,

Defendants.

CASE NO.: C07 02599 JF

**PLAINTIFFS' NOTICE OF TAKING  
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MONTEREY**

TO DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:

Pursuant to FRCP Rule 30 (b)(1), on **December 6, 2007** beginning at 10:00 a.m., at the Law  
Offices of Michael B. Moore, 595 Market Street, Suite 1320, San Francisco, CA 94105, Telephone  
(415) 956-6500, plaintiffs will take the deposition of the **COUNTY OF MONTEREY**. Defendant  
County of Monterey is requested to designate and produce those of its officers, directors, managing  
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4 completed.

5 Pursuant to Rule 34, Defendant County of Monterey is requested to produce at the time of  
6 the deposition all documents relating to or referring the matters listed in Attachment 2.

7  
8 LAW OFFICE OF MICHAEL B. MOORE

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11 Dated: November 1, 2007

By: Michael B. Moore  
Michael B. Moore

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Law Office Of Michael B. Moore  
595 Market Street Suite 1320  
San Francisco, CA 94105

EXHIBIT 5  
PAGE 19 OF 54 PAGES

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TOPICS FOR DEPOSITION

1. That person most familiar with the history of inmate on inmate violence at the Monterey County Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence in the past ten years.

2. That person most familiar with any and all DOCUMENTS which evidence the history of inmate on inmate violence at the Monterey County Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence in the past ten years.

3. That person most familiar with the history of inmate on inmate violence within D Pod at the Monterey County Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence in the past ten years.

4. That person most familiar with any and all DOCUMENTS which evidence the history of inmate on inmate violence within D Pod at the Monterey County Jail, including, but not

1 limited to, increases and decreases in incidents of inmate on inmate violence and the reasons, if any,  
2 for increases or decreases in incidents of inmate on inmate violence in the past ten years.

3 5. That person most familiar with the effect of jail overcrowding on inmate on inmate  
4 violence at the Monterey County Jail, including, but not limited to, increases and decreases in  
5 incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in incidents  
6 of inmate on inmate violence in the past ten years.

7 6. That person most familiar with any and all DOCUMENTS relating to the effect of  
8 jail overcrowding on inmate on inmate violence at the Monterey County Jail, including, but not  
9 limited to, increases and decreases in incidents of inmate on inmate violence and the reasons, if any,  
10 for increases or decreases in incidents of inmate on inmate violence in the past ten years.

11 7. That person most familiar with the effect of under staffing and high employee  
12 turnover rates at the Monterey County Jail on inmate on inmate violence at the Monterey County  
13 Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate violence  
14 and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence in the  
15 past ten years.

16 8. That person most familiar with any and all DOCUMENTS relating to the effect of  
17 under staffing and high employee turnover rates at the Monterey County Jail on inmate on inmate  
18 violence at the Monterey County Jail, including, but not limited to, increases and decreases in  
19 incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in incidents  
20 of inmate on inmate violence in the past ten years.

21 9. That person most familiar with the effect of jail overcrowding on inmate on inmate  
22 violence in D Pod at the Monterey County Jail, including, but not limited to, increases and decreases  
23 in incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in  
24 incidents of inmate on inmate violence in the past ten years.

25 10. That person most familiar with any and all DOCUMENTS relating to the effect of  
26 jail overcrowding on inmate on inmate violence in D Pod at the Monterey County Jail, including,  
27 but not limited to, increases and decreases in incidents of inmate on inmate violence and the reasons,  
28



1 if any, for increases or decreases in incidents of inmate on inmate violence in the past ten years.

2 11. That person most familiar with the effect of under staffing and high employee  
3 turnover rates in D Pod at the Monterey County Jail on inmate on inmate violence at the Monterey  
4 County Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate  
5 violence and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence  
6 in the past ten years.

7 12. That person most familiar with any and all DOCUMENTS relating to the effect of  
8 under staffing and high employee turnover rates at the Monterey County Jail on inmate on inmate  
9 violence in D Pod at the Monterey County Jail, including, but not limited to, increases and decreases  
10 in incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in  
11 incidents of inmate on inmate violence in the past ten years.

12 13. That person most familiar with any and all policies and procedures with respect to  
13 the proper supervision of inmates to prevent and/or reduce the instances of inmate on inmate  
14 violence at the Monterey County Jail in the past ten years.

15 14. That person most familiar with any and all DOCUMENTS evidencing the policies  
16 and procedures with respect to the proper supervision of inmates to prevent and/or reduce the  
17 instances of inmate on inmate violence at the Monterey County Jail in the past ten years.

18 15. That person most familiar with any and all policies and procedures with respect to  
19 the proper supervision of inmates in D Pod to prevent and/or reduce the instances of inmate on  
20 inmate violence at the Monterey County Jail in the past ten years.

21 16. That person most familiar with any and all DOCUMENTS evidencing the policies  
22 and procedures with respect to the proper supervision of inmates in D Pod to prevent and/or reduce  
23 the instances of inmate on inmate violence at the Monterey County Jail in the past ten years.

## ATTACHMENT 2

### DEFINITIONS

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(1) **INCIDENT** means the attack by Roger Spencer on Jimmy D. Haws which occurred on December 7, 2006 in the stairway area of D-Pod of the Monterey County Jail in Salinas, California.

(2) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostats, photographs, electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds or symbols, or combinations of them.

### DOCUMENTS TO BE PRODUCED

1. Any and all DOCUMENTS which evidence the history of inmate on inmate violence at the Monterey County Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence in the past ten years.

2. Any and all DOCUMENTS which evidence the history of inmate on inmate violence within D Pod at the Monterey County Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence in the past ten years.

3. Any and all DOCUMENTS relating to the effect of jail overcrowding on inmate on inmate violence at the Monterey County Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate violence and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence in the past ten years.

4. Any and all DOCUMENTS relating to the effect of under staffing and high employee turnover rates at the Monterey County Jail on inmate on inmate violence at the Monterey County Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate violence



1 and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence in the  
2 past ten years.

3 5. Any and all DOCUMENTS relating to the effect of jail overcrowding on inmate on  
4 inmate violence in D Pod at the Monterey County Jail, including, but not limited to, increases and  
5 decreases in incidents of inmate on inmate violence and the reasons, if any, for increases or decreases  
6 in incidents of inmate on inmate violence in the past ten years.

7 6. Any and all DOCUMENTS relating to the effect of under staffing and high employee  
8 turnover rates at the Monterey County Jail on inmate on inmate violence in D Pod at the Monterey  
9 County Jail, including, but not limited to, increases and decreases in incidents of inmate on inmate  
10 violence and the reasons, if any, for increases or decreases in incidents of inmate on inmate violence  
11 in the past ten years.

12 7. Any and all DOCUMENTS evidencing the policies and procedures with respect to  
13 the proper supervision of inmates to prevent and/or reduce the instances of inmate on inmate  
14 violence at the Monterey County Jail in the past ten years.

15 8. Any and all DOCUMENTS evidencing the policies and procedures with respect to  
16 the proper supervision of inmates in D Pod to prevent and/or reduce the instances of inmate on  
17 inmate violence at the Monterey County Jail in the past ten years.

Law Office Of Michael B. Moore  
595 Market Street Suite 1320  
San Francisco, CA 94105

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26 EXHIBIT 5  
27 PAGE 24 OF 54 PAGES  
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*Haws v. County of Monterey, et al*  
*Case No. C07 02599 RS*  
*U. S. District Court - Northern District of California*

**DECLARATION OF SERVICE BY MAIL**  
**(C.C.P. § 1013a(3), 2009, 2015.5)**

I am over the age of 18 years, a citizen of the United States, and not a party to the within entitled cause of action. My business address is 595 Market Street, Suite 1320, San Francisco, California 94105, and I am employed in the City and County of San Francisco, State of California. On the date set forth below I served the documents described below:

1. Plaintiffs' Notice of Deposition Chief Deputy Burt Liebersbach
2. Plaintiffs' First Notice of PMK Deposition to the County of Monterey
3. Plaintiffs' Second Notice of PMK Deposition to the County of Monterey
4. Plaintiffs' Third Notice of PMK Deposition to the County of Monterey
5. Plaintiffs' Fourth Notice of PMK Deposition to the County of Monterey

on the following party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Traci Kirkbride, Deputy County Counsel  
 Office of the County Counsel  
 County of Monterey  
 168 W. Alisal Street  
 Salinas, CA 93901  
**Attorneys for Defendant County**

Ralph W. Boroff, Esq.  
 55 River Street, Suite 100  
 Santa Cruz, CA 95060  
**Co-Counsel for Plaintiffs**

David Sheuerman, Esq.  
 Sheuerman, Martini & Tabari, P.C.  
 1033 Willow Street  
 San Jose, CA 95125  
**Attorneys for Defendant Natividad**

- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.
- ☐ (BY HAND) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ (BY FACSIMILE/ELECTRONIC MAIL/OVERNIGHT MAIL) I caused such document(s) to be transmitted by facsimile/electronically or by overnight mail on this date to the office of the addressee(s).
- ☐ (BY E-FILING WITH THE U.S. DISTRICT COURT) By submitting these documents for Electronic Case Filing, Pursuant to Local Rule 5-4 and General Order 45, at the Law Office of Michael B. Moore, 595 Market Street, Suite 1320, San Francisco, CA 94105.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 1, 2007 at San Francisco, California.


  
 Mark Ross

EXHIBIT 5  
 PAGE 25 OF 54 PAGES

MONTEREY COUNTY COUNSEL ( )  
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EXHIBIT 5  
PAGE 26 OF 54 PAGES

Michael B. Moore, Esq. (SBN 62182)  
595 Market Street, Suite 1320  
San Francisco, California 94105  
Telephone: (415) 956-6500  
Facsimile: (415) 956-6580  
Email: [mbm@moore-law.net](mailto:mbm@moore-law.net)

Ralph W. Boroff, Esq. (SBN 59164)  
55 River Street, Suite 100  
Santa Cruz, CA 95060  
Telephone: (831) 458-0502  
Facsimile: (831) 426-0159

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA  
NORTHERN DISTRICT OF THE STATE OF CALIFORNIA  
SAN JOSE DIVISION

JIMMY D. HAWS, SETH DANIEL HAWS,  
and MIA SKYE HAWS, minors, by and  
through their guardian ad litem, CARRIE  
A. HAWS, and CARRIE A. HAWS,  
individually,

Plaintiffs,

v.

COUNTY OF MONTEREY, MICHAEL  
KANALAKIS, NATIVIDAD MEDICAL  
CENTER and DOES 1-300, inclusive,

Defendants.

CASE NO.: C07 02599 JF

**PLAINTIFFS' NOTICE OF TAKING  
DEPOSITION OF THE COUNTY OF  
MONTEREY**

TO DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:

Pursuant to FRCP Rule 30 (b)(1), on **December 7, 2007** beginning at 10:00 a.m., at the Law  
Offices of Michael B. Moore, 595 Market Street, Suite 1320, San Francisco, CA 94105, Telephone  
(415) 956-6500, plaintiffs will take the deposition of the **COUNTY OF MONTEREY**. Defendant  
County of Monterey is requested to designate and produce those of its officers, directors, managing  
agents, employees or agents who are most qualified to testify on its behalf as to the matters listed in  
Attachment 1 to the extent of any information known or reasonably available to the County of  
Monterey.

1 Said depositions will be taken before a deposition officer who is authorized to administer an  
2 oath. If the deposition is not completed on the dates set forth above, the taking of the depositions  
3 will be continued from day to day thereafter except Sundays and holidays at the same place until  
4 completed.

5 Pursuant to Rule 34, Defendant County of Monterey is requested to produce at the time of  
6 the deposition all documents relating to or referring the matters listed in Attachment 2.

7  
8 LAW OFFICE OF MICHAEL B. MOORE

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11 Dated: November 1, 2007

By: Michael B. Moore  
Michael B. Moore

Law Office Of Michael B. Moore  
595 Market Street Suite 1320  
San Francisco, CA 94105

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27 PAGE 28 OF 54 PAGES  
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1 **ATTACHMENT 1**

2 **DEFINITIONS**

3 Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

4 (1) **INCIDENT** means the attack by Roger Spencer on Jimmy D. Haws which occurred  
5 on December 7, 2006 in the stairway area of D-Pod of the Monterey County Jail in Salinas,  
6 California.

7 (2) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and  
8 includes the original or a copy of handwriting, typewriting, printing, photostats, photographs,  
9 electronically stored information, and every other means of recording upon any tangible thing and  
10 form of communicating or representation, including letters, words, pictures, sounds or symbols, or  
11 combinations of them.

12 **TOPICS FOR DEPOSITION**

13 1. That person most familiar with the policies and procedures in place at the Monterey  
14 County Jail relating to the classification of inmates, housing placement, and the cell mate assignment  
15 and selection process in the past ten years.

16 2. That person most familiar with any and all DOCUMENTS which evidence the  
17 policies and procedures in place at the Monterey County Jail relating to the classification of inmates,  
18 housing placement, and the cell mate assignment and selection process in the past ten years.

19 3. That person most familiar with the policies and procedures in place at the Monterey  
20 County Jail relating to the classification of inmates, housing placement, and the cell mate assignment  
21 and selection process, specific to inmates being housed in D Pod in the past ten years.

22 4. That person most familiar with any and all DOCUMENTS which evidence the  
23 policies and procedures in place at the Monterey County Jail relating to the classification of inmates,  
24 housing placement, and the cell mate assignment and selection process, specific to inmates being  
25 housed in D Pod in the past ten years.

26 5. That person most familiar with the policies and procedures in place at the Monterey  
27



1 County Jail relating to the re-classification of inmates, changes in housing placement, and changes  
2 in the cell mate assignment and selection where there are reported instances of inmate on inmate  
3 conflicts between cell mates in the past ten years.

4 6. That person most familiar with any and all DOCUMENTS which evidence the  
5 policies and procedures in place at the Monterey County Jail relating to the classification of inmates,  
6 housing placement, and the cell mate assignment and selection where there are reported instances  
7 of inmate on inmate conflicts between cell mates in the past ten years.

8 7. That person most familiar with the policies and procedures in place at the Monterey  
9 County Jail relating to the classification of inmates, housing placement, and the cell mate assignment  
10 and selection process, specific to inmates being housed in D Pod where there are reported instances  
11 of inmate on inmate conflicts between cell mates in the past ten years.

12 8. That person most familiar with any and all DOCUMENTS which evidence the  
13 policies and procedures in place at the Monterey County Jail relating to the classification of inmates,  
14 housing placement, and the cell mate assignment and selection process, specific to inmates being  
15 housed in D Pod where there are reported instances of inmate on inmate conflicts between cell mates  
16 in the past ten years.

17 9. That person most familiar with the policies and procedures in place at the Monterey  
18 County Jail relating to segregating inmates who have committed and/or been accused of committing  
19 serious violent offenses, from those who have committed and/or been accused of committing non-  
20 violent offenses in the past ten years.

21 10. That person most familiar with any and all DOCUMENTS which evidence the  
22 policies and procedures in place at the Monterey County Jail relating to segregating inmates who  
23 have committed and/or been accused of committing serious violent offenses, from those who have  
24 committed and/or been accused of committing non-violent offenses in the past ten years.

25 11. That person most familiar with the policies and procedures in place at the Monterey  
26 County Jail relating to segregating inmates who have been diagnosed with a mental disorders which  
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1 could lead to violent behavior, from the general jail inmate population, and/or those who have  
2 committed and/or been accused of committing non-violent offenses in the past ten years.

3 12. That person most familiar with any and all DOCUMENTS which evidence the  
4 policies and procedures in place at the Monterey County Jail relating to segregating inmates who  
5 have been diagnosed with a mental disorders which could lead to violent behavior, from the general  
6 jail inmate population, and/or those who have committed and/or been accused of committing non-  
7 violent offenses in the past ten years.

8 13. That person most familiar with the detention of Roger Spencer, including but not  
9 limited to arrest records, violence records, discipline records, lockdown records, medical records,  
10 mental health evaluations, gang affiliation identification, witness statements, and any other records  
11 in your possession, custody or control relating to the detention of Roger Spencer in the past ten years.

12 14. That person most familiar with any and all DOCUMENTS which evidence the  
13 detention of Roger Spencer, including but not limited to arrest records, violence records, discipline  
14 records, lockdown records, medical records, mental health evaluations, gang affiliation  
15 identification, witness statements, and any other records in your possession, custody or control  
16 relating to the detention of Roger Spencer in the past ten years.

17 15. That person most familiar with the detention of Jimmy Haws, including but not  
18 limited to arrest records, violence records, discipline records, lockdown records, medical records,  
19 mental health evaluations, gang affiliation identification, witness statements, and any other records  
20 in your possession, custody or control relating to the detention of Jimmy Haws in the past ten years.

21 16. That person most familiar with any and all DOCUMENTS which evidence the  
22 detention of Jimmy Haws, including but not limited to arrest records, violence records, discipline  
23 records, lockdown records, medical records, mental health evaluations, gang affiliation  
24 identification, witness statements, and any other records in your possession, custody or control  
25 relating to the detention of Jimmy Haws in the past ten years.

26 17. That person most familiar with the decision to assign Jimmy Haws and Roger Spencer  
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1 as cell mates in D-Pod, including but not limited to all inmate classification documents, transfer  
2 requests, inmate discipline records, and chain of command documents in the past ten years.

3 18. That person most familiar with any and all DOCUMENTS which evidence the  
4 decision to assign Jimmy Haws and Roger Spencer as cell mates in D-Pod, including but not limited  
5 to all inmate classification documents, transfer requests, inmate discipline records, and chain of  
6 command documents in the past ten years.

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Law Office Of Michael B. Moore  
595 Market Street Suite 1320  
San Francisco, CA 94105

EXHIBIT 5  
PAGE 32 OF 54 PAGES

ATTACHMENT 2

DEFINITIONS

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(1) **INCIDENT** means the attack by Roger Spencer on Jimmy D. Haws which occurred on December 7, 2006 in the stairway area of D-Pod of the Monterey County Jail in Salinas, California.

(2) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostats, photographs, electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds or symbols, or combinations of them.

DOCUMENTS TO BE PRODUCED

1. Any and all DOCUMENTS which evidence the policies and procedures in place at the Monterey County Jail relating to the classification of inmates, housing placement, and the cell mate assignment and selection process.

2. Any and all DOCUMENTS which evidence the policies and procedures in place at the Monterey County Jail relating to the classification of inmates, housing placement, and the cell mate assignment and selection process, specific to inmates being housed in D Pod.

3. Any and all DOCUMENTS which evidence the policies and procedures in place at the Monterey County Jail relating to the classification of inmates, housing placement, and the cell mate assignment and selection where there are reported instances of inmate on inmate conflicts between cell mates.

4. Any and all DOCUMENTS which evidence the policies and procedures in place at the Monterey County Jail relating to the classification of inmates, housing placement, and the cell mate assignment and selection process, specific to inmates being housed in D Pod where there are reported instances of inmate on inmate conflicts between cell mates.

EXHIBIT 5  
PAGE 33 OF 54 PAGES

9. Any and all DOCUMENTS which evidence the decision to assign Jimmy Haws and Roger Spencer as cell mates in D-Pod, including but not limited to all inmate classification documents, transfer requests, inmate discipline records, and chain of command documents.

EXHIBIT 5  
PAGE 34 OF 54 PAGES

1 *Haws v. County of Monterey, et al*  
 2 *Case No. C07 02599 RS*  
 3 *U. S. District Court - Northern District of California*

4 **DECLARATION OF SERVICE BY MAIL**  
 5 **(C.C.P. § 1013a(3), 2009, 2015.5)**

6 I am over the age of 18 years, a citizen of the United States, and not a party to the within  
 7 entitled cause of action. My business address is 595 Market Street, Suite 1320, San Francisco,  
 8 California 94105, and I am employed in the City and County of San Francisco, State of California.  
 9 On the date set forth below I served the documents described below:

1. Plaintiffs' Notice of Deposition Chief Deputy Burt Liebersbach
2. Plaintiffs' First Notice of PMK Deposition to the County of Monterey
3. Plaintiffs' Second Notice of PMK Deposition to the County of Monterey
4. Plaintiffs' Third Notice of PMK Deposition to the County of Monterey
5. Plaintiffs' Fourth Notice of PMK Deposition to the County of Monterey

10 on the following party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope  
 11 addressed as follows:

12 Traci Kirkbride, Deputy County Counsel  
 13 Office of the County Counsel  
 14 County of Monterey  
 15 168 W. Alisal Street  
 16 Salinas, CA 93901  
 17 **Attorneys for Defendant County**

Ralph W. Boroff, Esq.  
 55 River Street, Suite 100  
 Santa Cruz, CA 95060  
**Co-Counsel for Plaintiffs**

18 David Sheuerman, Esq.  
 19 Sheuerman, Martini & Tabari, P.C.  
 20 1033 Willow Street  
 21 San Jose, CA 95125  
 22 **Attorneys for Defendant Natividad**

- 23 ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United  
 24 States mail at San Francisco, California.
- 25 ☐ (BY HAND) I caused such envelope(s) to be delivered by hand this date to the offices of the  
 26 addressee(s).
- 27 ☐ (BY FACSIMILE/ELECTRONIC MAIL/OVERNIGHT MAIL) I caused such document(s) to  
 28 be transmitted by facsimile/electronically or by overnight mail on this date to the office of the addressee(s).
- ☐ (BY E-FILEING WITH THE U.S. DISTRICT COURT) By submitting these documents for  
 Electronic Case Filing, Pursuant to Local Rule 5-4 and General Order 45, at the Law Office of Michael B.  
 Moore, 595 Market Street, Suite 1320, San Francisco, CA 94105.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 1, 2007 at San Francisco, California.

  
 Mark Ross

EXHIBIT

PAGE 35 OF 54 PAGES

MONTEREY COUNTY COUNSEL  
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EXHIBIT 5  
PAGE 36 OF 54 PAGES

Michael B. Moore, Esq. (SBN 62182)  
595 Market Street, Suite 1320  
San Francisco, California 94105  
Telephone: (415) 956-6500  
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Email: [mbm@moore-law.net](mailto:mbm@moore-law.net)

Ralph W. Boroff, Esq. (SBN 59164)  
55 River Street, Suite 100  
Santa Cruz, CA 95060  
Telephone: (831) 458-0502  
Facsimile: (831) 426-0159

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA  
NORTHERN DISTRICT OF THE STATE OF CALIFORNIA  
SAN JOSE DIVISION

JIMMY D. HAWS, SETH DANIEL HAWS,  
and MIA SKYE HAWS, minors, by and  
through their guardian ad litem, CARRIE  
A. HAWS, and CARRIE A. HAWS,  
individually,

Plaintiffs,

v.

COUNTY OF MONTEREY, MICHAEL  
KANALAKIS, NATIVIDAD MEDICAL  
CENTER and DOES 1-300, inclusive,

Defendants.

CASE NO.: C07 02599 JF

**PLAINTIFFS' NOTICE OF TAKING  
DEPOSITION OF THE COUNTY OF  
MONTEREY**

TO DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:

Pursuant to FRCP Rule 30 (b)(1), on **December 10, 2007** beginning at 10:00 a.m., at the Law  
Offices of Ralph W. Boroff, Esq., 55 River Street, Suite 100, Santa Cruz, CA 95060, Telephone  
(415) 956-6500, plaintiffs will take the deposition of the **COUNTY OF MONTEREY**. Defendant  
County of Monterey is requested to designate and produce those of its officers, directors, managing  
agents, employees or agents who are most qualified to testify on its behalf as to the matters listed in  
Attachment 1 to the extent of any information known or reasonably available to the County of  
Monterey

1 Said depositions will be taken before a deposition officer who is authorized to administer an  
2 oath. If the deposition is not completed on the dates set forth above, the taking of the depositions  
3 will be continued from day to day thereafter except Sundays and holidays at the same place until  
4 completed.

5 Pursuant to Rule 34, Defendant County of Monterey is requested to produce at the time of  
6 the deposition all documents relating to or referring the matters listed in Attachment 2.

7  
8 LAW OFFICE OF MICHAEL B. MOORE

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11 Dated: November 2, 2007

12 By: Michael B. Moore  
13 Michael B. Moore  
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ATTACHMENT 1

DEFINITIONS

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(1) **INCIDENT** means the attack by Roger Spencer on Jimmy D. Haws which occurred on December 7, 2006 in the stairway area of D-Pod of the Monterey County Jail in Salinas, California.

(2) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostats, photographs, electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds or symbols, or combinations of them.

TOPICS FOR DEPOSITION

1. That person most familiar with any and all conflicts and/or confrontations between Jimmy Haws and Roger Spencer that occurred at any time prior to the INCIDENT.

2. That person most familiar with any and all DOCUMENTS which evidence any and all conflicts and/or confrontations between Jimmy Haws and Roger Spencer that occurred at any time prior to the INCIDENT.

3. That person most familiar with the placement of Roger Spencer in isolation, the offenses for which Roger Spencer was placed in isolation, and/or any other disciplinary action taken against Roger Spencer.

4. That person most familiar with any and all DOCUMENTS which evidence the placement of Roger Spencer in isolation, the offenses for which Roger Spencer was placed in isolation, and/or any other disciplinary action taken against Roger Spencer.

5. That person most familiar with the placement of Jimmy Haws in isolation, the offenses for which Jimmy Haws was placed in isolation, and/or any other disciplinary action taken against Jimmy Haws.

EXHIBIT 5  
PAGE 39 OF 54 PAGES



16. That person most familiar with all DOCUMENTS which evidence the prosecution of Roger Spencer as a result of the attack and personal injuries sustained by Jimmy Haws on

1 December 7, 2006.

2 17. That person most familiar with the decision to drop all charges against Jimmy Haws  
3 after the INCIDENT, including but not limited to, the reason said decision was made, and the  
4 identities of all persons involved in making this decision.

5 18. That person most familiar with all DOCUMENTS which evidence the decision to  
6 drop all charges against Jimmy Haws after the INCIDENT, including but not limited to, the reason  
7 said decision was made, and the identities of all persons involved in making this decision

8 19. That person most familiar with all DOCUMENTS, including, but not limited to,  
9 all surveillance videotapes, and audiotapes, which depict, memorialize, or record any interactions  
10 between Jimmy Haws and Roger Spencer in the 48 hour period prior to the INCIDENT.

11 20. That person most familiar with all DOCUMENTS, including, but not limited to, all  
12 surveillance videotapes, and audiotapes, which depict memorialize, or record the INCIDENT,  
13 the discovery of Jimmy Haws after the INCIDENT, and the emergency response to the INCIDENT.

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EXHIBIT 5  
PAGE 41 OF 54 PAGES

ATTACHMENT 2

DEFINITIONS

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(1) **INCIDENT** means the attack by Roger Spencer on Jimmy D. Haws which occurred on December 7, 2006 in the stairway area of D-Pod of the Monterey County Jail in Salinas, California.

(2) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostats, photographs, electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds or symbols, or combinations of them.

DOCUMENTS TO BE PRODUCED

1. any and all DOCUMENTS which evidence any and all conflicts and/or confrontations between Jimmy Haws and Roger Spencer that occurred at any time prior to the INCIDENT.

2. Any and all DOCUMENTS which evidence the placement of Roger Spencer in isolation, the offenses for which Roger Spencer was placed in isolation, and/or any other disciplinary action taken against Roger Spencer.

3. Any and all DOCUMENTS which evidence the placement of Jimmy Haws in isolation, the offenses for which Jimmy Haws was placed in isolation, and/or any other disciplinary action taken against Jimmy Haws.

4. All DOCUMENTS which evidence the supervisory staff on duty and assigned to supervise inmates housed in D-Pod of the Monterey County Jail during the 48 hour period leading up to the INCIDENT.

5. All DOCUMENTS which evidence the supervisory staff on duty and assigned to supervise inmates housed in D-Pod of the Monterey County Jail at the time of the INCIDENT.

6. All DOCUMENTS which evidence any and all threats made by Roger Spencer

1 against Jimmy Haws prior to the INCIDENT

2 7. All DOCUMENTS which evidence any and all threats made by Jimmy Haws against  
3 Roger Spencer prior to the INCIDENT.

4 8. All DOCUMENTS which evidence the prosecution of Roger Spencer as a result of  
5 the attack and personal injuries sustained by Jimmy Haws on December 7, 2006.

6 9. All DOCUMENTS which evidence the decision to drop all charges against Jimmy  
7 Haws after the INCIDENT, including but not limited to, the reason said decision was made, and the  
8 identities of all persons involved in making this decision.

9 10. All DOCUMENTS which evidence the decision to drop all charges against Jimmy  
10 Haws after the INCIDENT, including but not limited to, the reason said decision was made, and the  
11 identities of all persons involved in making this decision

12 19. All DOCUMENTS, including, but not limited to, all surveillance videotapes, and  
13 audiotapes, which depict, memorialize, or record any interactions between Jimmy Haws and Roger  
14 Spencer in the 48 hour period prior to the INCIDENT.

15 20. All DOCUMENTS, including, but not limited to, all surveillance videotapes, and  
16 audiotapes, which depict memorialize, or record the INCIDENT, the discovery of Jimmy Haws after  
17 the INCIDENT, and the emergency response to the INCIDENT.

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*Haws v. County of Monterey, et al*  
Case No. C07 02599 RS  
U. S. District Court - Northern District of California

**DECLARATION OF SERVICE BY MAIL**  
**(C.C.P. § 1013a(3), 2009, 2015.5)**

I am over the age of 18 years, a citizen of the United States, and not a party to the within entitled cause of action. My business address is 595 Market Street, Suite 1320, San Francisco, California 94105, and I am employed in the City and County of San Francisco, State of California. On the date set forth below I served the documents described below:

Plaintiffs' Fifth Notice of PMK Deposition to the County of Monterey  
on the following party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Traci Kirkbride, Deputy County Counsel  
Office of the County Counsel  
County of Monterey  
168 W. Alisal Street  
Salinas, CA 93901

Ralph W. Boroff, Esq.  
55 River Street, Suite 100  
Santa Cruz, CA 95060  
**Co-Counsel for Plaintiffs**

**Attorneys for Defendant County**

David Sheuerman, Esq.  
Sheuerman, Martini & Tabari, P.C.  
1033 Willow Street  
San Jose, CA 95125

**Attorneys for Defendant Natividad**

☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.

☐ (BY HAND) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).

☐ (BY FACSIMILE/ELECTRONIC MAIL/OVERNIGHT MAIL) I caused such document(s) to be transmitted by facsimile/electronically or by overnight mail on this date to the office of the addressee(s).

☐ (BY E-FILEING WITH THE U.S. DISTRICT COURT) By submitting these documents for Electronic Case Filing, Pursuant to Local Rule 5-4 and General Order 45, at the Law Office of Michael B. Moore, 595 Market Street, Suite 1320, San Francisco, CA 94105.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 2, 2007 at San Francisco, California.

  
Mark Ross

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MONTEREY COUNTY COUNSEL ( )  
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1 Michael B. Moore, Esq. (SBN 62182)  
595 Market Street, Suite 1320  
2 San Francisco, California 94105  
Telephone: (415) 956-6500  
3 Facsimile: (415) 956-6580  
Email: mbm@moore-law.net

4 Ralph W. Boroff, Esq. (SBN 59164)  
5 55 River Street, Suite 100  
Santa Cruz, CA 95060  
6 Telephone: (831) 458-0502  
Facsimile: (831) 426-0159

7 Attorneys for Plaintiffs

8  
9 IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA  
10 NORTHERN DISTRICT OF THE STATE OF CALIFORNIA  
SAN JOSE DIVISION

11 JIMMY D. HAWS, SETH DANIEL HAWS,  
12 and MIA SKYE HAWS, minors, by and  
through their guardian ad litem, CARRIE  
13 A. HAWS, and CARRIE A. HAWS,  
individually,

14 Plaintiffs,

15 v.

16 COUNTY OF MONTEREY, MICHAEL  
KANALAKIS, NATIVIDAD MEDICAL  
17 CENTER and DOES 1-300, inclusive,

18 Defendants.

CASE NO.: C07 02599 JF

**PLAINTIFFS' NOTICE OF TAKING  
DEPOSITION OF THE COUNTY OF  
MONTEREY**

19  
20 TO DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:

21 Pursuant to FRCP Rule 30 (b)(1), on **December 11, 2007** beginning at 10:00 a.m., at the Law  
22 Offices of Ralph W. Boroff, Esq., 55 River Street, Suite 100, Santa Cruz, CA 95060, Telephone  
23 (415) 956-6500, plaintiffs will take the deposition of the **COUNTY OF MONTEREY**. Defendant  
24 County of Monterey is requested to designate and produce those of its officers, directors, managing  
25 agents, employees or agents who are most qualified to testify on its behalf as to the matters listed in  
26 Attachment 1 to the extent of any information known or reasonably available to the County of  
27 Monterey

1 Said depositions will be taken before a deposition officer who is authorized to administer an  
2 oath. If the deposition is not completed on the dates set forth above, the taking of the depositions  
3 will be continued from day to day thereafter except Sundays and holidays at the same place until  
4 completed.

5 Pursuant to Rule 34, Defendant County of Monterey is requested to produce at the time of  
6 the deposition all documents relating to or referring the matters listed in Attachment 2.

7  
8 LAW OFFICE OF MICHAEL B. MOORE

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11 Dated: November 1, 2007

12 By: Michael B. Moore  
13 Michael B. Moore  
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Law Office Of Michael B. Moore  
695 Market Street Suite 1320  
San Francisco, CA 94105

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ATTACHMENT 1

DEFINITIONS

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(1) **INCIDENT** means the attack by Roger Spencer on Jimmy D. Haws which occurred on December 7, 2006 in the stairway area of D-Pod of the Monterey County Jail in Salinas, California.

(2) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostats, photographs, electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds or symbols, or combinations of them.

TOPICS FOR DEPOSITION

1. That person most familiar with the policies and procedures in place at the Monterey County Jail on December 7, 2006 for providing emergency medical care to inmates who sustain serious personal injuries.

2. That person most familiar with any and all DOCUMENTS which evidence the policies and procedures in place at the Monterey County Jail on December 7, 2006 for providing emergency medical care to inmates who sustain serious personal injuries.

3. That person most familiar with the policies and procedures in place at the Monterey County Jail on December 7, 2006 for responding to inmates who have serious medical emergencies.

4. That person most familiar with any and all DOCUMENTS which evidence the policies and procedures in place at the Monterey County Jail on December 7, 2006 for responding to inmates who have serious medical emergencies.

5. That person most familiar with any and all policies and procedures in place at the Monterey County Jail on December 7, 2006 for providing emergency medical care to inmates who sustain serious head injuries.

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1           6.       That person most familiar with any and all DOCUMENTS which evidence the  
2 policies and procedures in place at the Monterey County Jail on December 7, 2006 for providing  
3 emergency medical care to inmates who sustain serious head injuries.

4           7.       That person most familiar with any and all agreements between the County of  
5 Monterey and any HEALTH CARE PROVIDER to provide any emergency medical care, and/or  
6 inpatient medical services to inmates who have serious medical emergencies.

7           8.       That person most familiar with all DOCUMENTS which evidence any and all  
8 agreements between the County of Monterey and any HEALTH CARE PROVIDER to provide any  
9 emergency medical care, and/or inpatient medical services to inmates who have serious medical  
10 emergencies.

11          9.       That person most familiar with all emergency medical care provided to Jimmy Haws  
12 at the scene of the INCIDENT, including but not limited to (a) the identities and medical  
13 qualifications of all persons who administered said emergency medical care, (b) The type of care  
14 administered to Jimmy Haws at the scene, (c) the time (i.e. how long after the incident) said care and  
15 treatment was provided to Jimmy Haws.

16          10.       That person most familiar with all DOCUMENTS which evidence any and all  
17 emergency medical care provided to Jimmy Haws at the scene of the INCIDENT, including but not  
18 limited to (a) the identities and medical qualifications of all persons who administered said  
19 emergency medical care, (b) The type of care administered to Jimmy Haws at the scene, (c) the time  
20 (i.e. how long after the incident) said care and treatment was provided to Jimmy Haws, (d) the  
21 identities of all person(s) present when said care and treatment was provided to Jimmy Haws.

22          11.       That person most familiar with the decision to transport Jimmy Haws to any medical  
23 facility outside the Monterey County Jail, including but not limited to (a) the basis for selecting the  
24 medical facility Jimmy Haws was transported to; (b) the identities of the persons who selected the  
25 medical facility Jimmy Haws was transported to; (c) the identities of the persons who transported  
26 Jimmy Haws to said facility; (d) The time Jimmy Haws was transported to said facility; (e) Jimmy  
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1 Haws' condition upon transport to said facility, and upon arrival at said facility.

2 10. That person most familiar with all DOCUMENTS which evidence the decision to  
3 transport Jimmy Haws to any medical facility outside the Monterey County Jail, including but not  
4 limited to (a) the basis for selecting the medical facility Jimmy Haws was transported to; (b) the  
5 identities of the persons who selected the medical facility Jimmy Haws was transported to; (c) the  
6 identities of the persons who transported Jimmy Haws to said facility; (d) The time Jimmy Haws  
7 was transported to said facility; (e) Jimmy Haws' condition upon transport to said facility, and upon  
8 arrival at said facility.

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Law Office Of Michael B. Moore  
595 Market Street Suite 1320  
San Francisco, CA 94105

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1 **ATTACHMENT 2**

2 **DEFINITIONS**

3 Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

4 (1) **INCIDENT** means the attack by Roger Spencer on Jimmy D. Haws which occurred  
5 on December 7, 2006 in the stairway area of D-Pod of the Monterey County Jail in Salinas,  
6 California.

7 (2) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and  
8 includes the original or a copy of handwriting, typewriting, printing, photostats, photographs,  
9 electronically stored information, and every other means of recording upon any tangible thing and  
10 form of communicating or representation, including letters, words, pictures, sounds or symbols, or  
11 combinations of them.

12 **DOCUMENTS TO BE PRODUCED**

13 1. Any and all DOCUMENTS which evidence the policies and procedures in place at  
14 the Monterey County Jail on December 7, 2006 for providing emergency medical care to inmates  
15 who sustain serious personal injuries.

16 2. Any and all DOCUMENTS which evidence the policies and procedures in place at  
17 the Monterey County Jail on December 7, 2006 for responding to inmates who have serious medical  
18 emergencies.

19 3. Any and all DOCUMENTS which evidence the policies and procedures in place at  
20 the Monterey County Jail on December 7, 2006 for providing emergency medical care to inmates  
21 who sustain serious head injuries.

22 4. Any and all DOCUMENTS which evidence any and all agreements between the  
23 County of Monterey and any HEALTH CARE PROVIDER to provide any emergency medical care,  
24 and/or inpatient medical services to inmates who have serious medical emergencies.

25 5. All DOCUMENTS which evidence any and all emergency medical care provided to  
26 Jimmy Haws at the scene of the INCIDENT, including but not limited to (a) the identities and  
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595 Market Street Suite 1320  
San Francisco, CA 94105



1 medical qualifications of all persons who administered said emergency medical care, (b) The type  
2 of care administered to Jimmy Haws at the scene, (c) the time (i.e. how long after the incident) said  
3 care and treatment was provided to Jimmy Haws, (d) the identities of all person(s) present when said  
4 care and treatment was provided to Jimmy Haws.

5 6. All DOCUMENTS which evidence the decision to transport Jimmy Haws to any  
6 medical facility outside the Monterey County Jail, including but not limited to (a) the basis for  
7 selecting the medical facility Jimmy Haws was transported to; (b) the identities of the persons who  
8 selected the medical facility Jimmy Haws was transported to; (c) the identities of the persons who  
9 transported Jimmy Haws to said facility; (d) The time Jimmy Haws was transported to said facility;  
10 (e) Jimmy Haws' condition upon transport to said facility, and upon arrival at said facility.

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595 Market Street Suite 1320  
San Francisco, CA 94105

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*Haws v. County of Monterey, et al*  
Case No. C07 02599 RS  
U. S. District Court - Northern District of California

**DECLARATION OF SERVICE BY MAIL**  
**(C.C.P. § 1013a(3), 2009, 2015.5)**

I am over the age of 18 years, a citizen of the United States, and not a party to the within entitled cause of action. My business address is 595 Market Street, Suite 1320, San Francisco, California 94105, and I am employed in the City and County of San Francisco, State of California. On the date set forth below I served the documents described below:

1. Plaintiffs' Notice of Deposition Chief Deputy Burt Liebersbach
2. Plaintiffs' First Notice of PMK Deposition to the County of Monterey
3. Plaintiffs' Second Notice of PMK Deposition to the County of Monterey
4. Plaintiffs' Third Notice of PMK Deposition to the County of Monterey
5. Plaintiffs' Fourth Notice of PMK Deposition to the County of Monterey

on the following party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Traci Kirkbride, Deputy County Counsel  
Office of the County Counsel  
County of Monterey  
168 W. Alisal Street  
Salinas, CA 93901  
**Attorneys for Defendant County**

Ralph W. Boroff, Esq.  
55 River Street, Suite 100  
Santa Cruz, CA 95060  
**Co-Counsel for Plaintiffs**

David Sheuerman, Esq.  
Sheuerman, Martini & Tabari, P.C.  
1033 Willow Street  
San Jose, CA 95125  
**Attorneys for Defendant Natividad**

- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.
- ☐ (BY HAND) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ (BY FACSIMILE/ELECTRONIC MAIL/OVERNIGHT MAIL) I caused such document(s) to be transmitted by facsimile/electronically or by overnight mail on this date to the office of the addressee(s).
- ☐ (BY E-FILEING WITH THE U.S. DISTRICT COURT) By submitting these documents for Electronic Case Filing, Pursuant to Local Rule 5-4 and General Order 45, at the Law Office of Michael B. Moore, 595 Market Street, Suite 1320, San Francisco, CA 94105.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 1, 2007 at San Francisco, California.


  
Mark Ross

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MONTEREY COUNTY COUNSEL ( )  
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# Exhibit 6

**LAW OFFICE OF MICHAEL B. MOORE**

595 Market Street, Suite 1320 • San Francisco, California 94105

Telephone (415) 956-6500  
Facsimile (415) 956-6580

Email: [mbm@moore-law.net](mailto:mbm@moore-law.net)

December 10, 2007

Via Fax: 831-755-5283

Traci Kirkbride, Deputy County Counsel  
Office of the County Counsel  
County of Monterey  
168 W. Alisal Street  
Salinas, CA 93901

Re: *Jimmy D. Haws v. County of Monterey, et al*

Dear Ms. Kirkbride:

This will confirm our telephone conversation last week in which you confirmed that you have someone working on assembling the documents we have requested in all our written discovery so that they will be available for your review on December 17<sup>th</sup> when you return from your trip and for production at the end of the week on December 21<sup>st</sup>. I would sure appreciate it if you would send the documents to us by overnight mail so that we receive them on Friday 21<sup>st</sup> which is the last day before the Christmas/Christmas Eve holiday. Please send copies to both Ralph Boroff and myself.

On another matter, I would appreciate it if you would get in touch with Ralph when you return from your trip to reschedule the deposition of the person most knowledgeable from the County regarding inmate medical care which was scheduled for December 23. We have agreed to postpone that deposition but you should coordinate with Ralph and his schedule because he will be taking it.

Best wishes for a good holiday season.

Sincerely,



Michael B. Moore

/cjb

cc: Ralph W. Boroff, Esq.

EXHIBIT 6  
PAGE 1 OF 1 PAGES